

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DEBRA JOYCE CLACKLER

Plaintiff(s),

v.

GLADYS DEESE, ET AL.

Defendant(s).

2:06-CV-172-WHA

MOTION FOR LEAVE TO AMEND ANSWER

COMES NOW Frank Albright, by and through the undersigned, and moves the Court for permission to amend his Answer so as to add the ground that:

1. The Plaintiff fails to state a claim upon which relief can be granted because she fails to meet the heightened pleading standard for a 42 U.S.C. §1883 claim against a state official.

2. The purpose of said proposed amendment is to make it more clear to the Court that the aforesaid is one of the specific deficiencies of Plaintiff's Complaint.

Respectfully submitted,

TROY KING
Attorney General

/s/ Jeffery H. Long
Jeffery H. Long
Assistant Attorney General

ADDRESS OF COUNSEL:

Office of the Attorney General
11 South Union Street
Montgomery, AL 36130
(334) 242-7300

CERTIFICATE OF SERVICE

I hereby certify that I have, this the 14th day of August, 2006, electronically filed the foregoing with the Clerk of Court using the CM/ECF system and served a copy upon the Plaintiff by placing same in the United States Mail, postage prepaid and properly addressed as follows:

Debra Joyce Clackler, AIS 159516
Tutwiler Prison for Women
8966 US Hwy 231 N
Wetumpka, AL 36092

/s/ Jeffery H. Long
Jeffery H. Long
Assistant Attorney General

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AMENDED ANSWER

COMES NOW the Defendant, Frank Albright, by and through the Attorney General for the State of Alabama, the Honorable Troy King, and in accordance with this Honorable Court's March 20, 2006 Order, offers the following response to Plaintiff's complaint:

1. The Defendant denies all allegations herein and demands strict proof thereof.

AFFIRMATIVE DEFENSES

1. The Defendant asserts the defenses of qualified immunity and immunity under the Eleventh Amendment.

2. The Defendant asserts that he can not be held liable based on the theory of respondeat superior under 42 USC 1983.

3. The Defendant asserts immunity pursuant to Section 14 of the Constitution of Alabama of 1901.

4. The Defendant asserts state-discretionary immunity.

5. The Plaintiff fails to state a claim upon which relief can be granted because she fails to meet the heightened pleading standard for a 42 U.S.C. §1983 claim against a state official.

Respectfully submitted,

TROY KING
Attorney General

/s/ Jeffery H. Long
Jeffery H. Long
Assistant Attorney General

ADDRESS OF COUNSEL:

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